UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT CHATTANOOGA

ANTHONY L. HEREFORD,)	
)	
Petitioner,)	
)	
v.)	Case Nos. 1:04-cv-121 / 1:02-cr-201
)	Edgar / Carter
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

Petitioner Anthony L. Hereford, a federal prisoner, has filed a *pro se* motion for post-conviction relief under 28 U.S.C. § 2255. The United States of America opposes the motion. The Court referred the case to Magistrate Judge William B. Mitchell Carter for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). On January 18, 2007, Magistrate Judge Carter submitted a report and recommendation. [Doc. No. 13]. The parties have not timely filed any objections.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Petitioner's motion for leave to amend his § 2255 motion [Doc. No. 11] is **DENIED**. The motion for post-conviction relief brought under 28 U.S.C. § 2255 shall be **DENIED and DISMISSED WITH PREJUDICE.**

Any appeal from this decision by petitioner Hereford would be frivolous and not taken in good faith. Any application by petitioner Hereford for leave to proceed on appeal *in forma pauperis*

shall be denied pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a).

If petitioner Hereford files a notice of appeal, it shall be treated as an application for a certificate of appealability which will be denied pursuant to 28 U.S.C. § 2253(c) and Fed. R. App.

P. 22(b)(1) because he has not made a substantial showing of the denial of a constitutional right.

A separate judgment will be entered.

SO ORDERED.

ENTER this the 12th day February, 2007.

/s/ R. Allan Edgar

R. ALLAN EDGAR UNITED STATES DISTRICT JUDGE